

MDL 1570 PLAINTIFFS' EXECUTIVE COMMITTEES

In re: Terrorist Attacks on September 11, 2001 (S.D.N.Y.)

Plaintiffs' Executive Committee for Personal Injury and Death Claims	Plaintiffs' Executive Committee for Commercial Claims
Ronald L. Motley (1944-2013) Jodi Westbrook Flowers / Donald A. Migliori, <i>Co-Chairs</i> MOTLEY RICE LLC James P. Kreindler, <i>Co-Chair</i> KREINDLER & KREINDLER LLP	Stephen A. Cozen, <i>Co-Chair</i> Sean Carter, <i>Co-Chair</i> COZEN O'CONNOR
Andrew J. Maloney III, <i>Co-Liaison Counsel</i> KREINDLER & KREINDLER LLP Robert T. Haeefe, <i>Co-Liaison Counsel</i> MOTLEY RICE LLC	J. Scott Tarbutton, <i>Liaison Counsel</i> COZEN O'CONNOR

VIA ECF

January 31, 2019

The Honorable Sarah Netburn, U.S. Magistrate Judge
United States District Court for the S.D.N.Y.
Thurgood Marshall U.S. Courthouse, Room 430
40 Foley Square
New York, NY 10007

Re: *In Re: Terrorist Attacks on September 11, 2001*, 03 MDL 1570 (GBD) (SN)

Dear Judge Netburn:

The Plaintiffs' Executive Committees (PECs), with the consent of the Defendants' Executive Committee (DEC), counsel for the Kingdom of Saudi Arabia, counsel for Dallah Avco, and the Department of Justice (DOJ), submit the following status report in accordance with the Court's Order of January 17, 2019 (ECF No. 4367).

The Court's previous Order of January 7, 2019 (ECF No. 4339), directed the PECs, the DOJ, the DEC, and counsel for the Kingdom of Saudi Arabia and for Dallah Avco to confer regarding the effect on this multidistrict litigation of the then-ongoing lapse in appropriations for DOJ and other relevant agencies and provide the Court with a report. The parties and the DOJ conferred on January 9, 2018, and provided the Court with a joint status report on January 11, 2018 (ECF No. 4346). In an Order dated January 17, 2019 (ECF No. 4367), the Court adopted the parties' proposals¹ and directed the parties to confer further and provide the Court with a follow-up report on January 31, 2019. The parties further conferred on January 30, 2019, after the DOJ advised that the lapse in appropriations, which DOJ reported lasted 35 days, had concluded. This report is a result of those conferences.

Assistant United States Attorney Sarah Normand, on behalf of the DOJ, advised that key government personnel who were reviewing classified or confidential documents were on furlough for much or all of the lapse in appropriations. Although those government personnel have returned to work, a backlog of other tasks for which they are simultaneously responsible may enhance delays in

¹ The Court stayed any aspects of the litigation that require a response from a federal agency, including, among other things, the responses of the FBI and other federal agencies to the PECs' subpoenas, and depositions that invoke the *Touhy* process or otherwise implicate protected FBI materials.

The Honorable Sarah Netburn
January 31, 2019
Page 2

document reviews for the litigation. Accordingly, Ms. Normand advised that the FBI's third tranche production is now anticipated to be produced by March 15. The FBI further plans to process a fourth tranche of documents and possibly more, after March 15, but the dates for those productions have not been identified.

Regarding the subpoenas served on the CIA and Treasury Department by the PECs, conversations with the DOJ had to be deferred during the shutdown. The PECs hope to make a formal proposal to the DOJ on that front in the next two weeks.

Ms. Normand further advised that the State Department has a smaller volume of non-consular material that it is processing with the goal of producing by the end of February. With regard to a separate group of consular materials that are deemed confidential pursuant to 8 U.S.C. § 1202(f), after discussions were stayed during the lapse in appropriations, the PECs and the DOJ are meeting and conferring regarding the PECs' anticipated application to the Court.

Finally, the DOJ also confirmed that it is now available to receive and respond to *Touhy* requests and proposed redactions of materials filed under seal during the shutdown.

Respectfully submitted,

MOTLEY RICE LLC

COZEN O'CONNOR

By: /s/ Robert T. Haeefe
ROBERT T. HAEFELE
MOTLEY RICE LLC
28 Bridgeside Boulevard
Mount Pleasant, SC 29465
Tel.: (843) 216-9184
Email: rhaefe@motleyrice.com

For the Plaintiffs' Exec. Committees

By: /s/ Sean P. Carter
SEAN P. CARTER
COZEN O'CONNOR
One Liberty Place
1650 Market Street, Suite 2800
Philadelphia, Pennsylvania 19103
Tel.: (215) 665-2105
Email: scarter@cozen.com

For the Plaintiffs' Exec. Committees

KREINDLER & KREINDLER LLP

By: /s/ Andrew J. Maloney
ANDREW J. MALONEY
STEVEN R. POUNIAN
KREINDLER & KREINDLER LLP
750 Third Avenue
New York, New York 10017
Tel.: 212-687-8181
Email: amaloney@kreindler.com

For the Plaintiffs' Exec. Committees

cc: The Honorable George B. Daniels, via ECF
All Counsel of Record via ECF